

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #2	CCRB Case #: 201500767	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/30/2014 8:55 PM	Location of Incident: [REDACTED]	Precinct: 79	18 Mo. SOL 1/30/2016	EO SOL 1/30/2016	
Date/Time CV Reported	CV Reported At: Precinct	How CV Reported: Mail	Date/Time Received at CCRB Tue, 02/03/2015 10:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Iovine	11215	945212	79 PCT
2. SGT David Leonardi	04982	930557	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eduardo Cornejo	13722	936390	079 PCT
2. POF Pamela Benites	13086	946728	079 PCT
3. POM Terrence Howard	10504	950599	079 PCT
4. POM Adam Dumelle	07474	948001	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT David Leonardi	Discourtesy: Sgt. David Leonardi spoke rudely to § 87(2)(b) and § 87(2)(b)	[REDACTED]
B.POM Michael Iovine	Force: PO Michael Iovine used a chokehold against § 87(2)(b)	[REDACTED]
C.POM Michael Iovine	Force: PO Michael Iovine restricted the breathing of § 87(2)(b)	[REDACTED]

Case Summary

On July 30, 2014, at approximately 8:55 p.m., § 87(2)(b) was sitting in the courtyard area outside of § 87(2)(b) in Brooklyn when Sgt. David Leonardi, PO Pamela Benites, PO Eduardo Cornejo, PO Michael Iovine and PO Adam Dumelle approached her, and attempted to place her under arrest. § 87(2)(b) admittedly refused to be arrested. Sgt. Leonardi and PO Benites grabbed her arms, and § 87(2)(b) admittedly pulled her arms away from the officers, flailed her arms and “fought” with the officers. Sgt. Leonardi allegedly said, “Didn’t we tell you to put your fucking hands up?” (**Allegation A**) PO Iovine allegedly placed his arms around § 87(2)(b)’s neck, and pressed his forearm against her throat (**Allegation B and C**). § 87(2)(b) said, “I can’t breathe, I can’t breathe.” Sgt. Leonardi allegedly told § 87(2)(b) “Shut the fuck up.” § 87(2)(b) placed her hands in between her legs to avoid being handcuffed. A crowd gathered and began yelling to the crowd that § 87(2)(b) was “sickly.” Sgt. Leonardi allegedly responded by yelling, “She’s a piece of shit.” He also allegedly yelled at the crowd to “Back the fuck up.” § 87(2)(b) was arrested for sale of narcotics though she denied that any narcotics were found. § 87(2)(b) suffered scratches on her knuckles and elbows from being on the ground, but she refused medical treatment.

Mediation, Civil and Criminal Histories

§ 87(2)(b) has not filed a notice of claim with the City of New York regarding this incident (BR1). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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Civilian and Officer CCRB Histories

This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b)

Sgt. Leonardi has been a member of the NYPD for 12 years, has had 57 prior CCRB allegations, involving 22 prior CCRB complaints (BR3). The following allegations were substantiated:

- In CCRB case number 200410123, an allegation of property damage was substantiated and he received a command discipline
- In CCRB case number 201107817, allegations of stop, frisk and search were substantiated and he received instructions
- In CCRB case number 201310961, allegations of refusal to process civilian complaint and frisk were substantiated. The board recommended command discipline against him.
- In CCRB case number 201401016, an allegation of strip search was substantiated and the board recommended charges against him.

- In CCRB case number 201408861, an allegation of strip search was substantiated and the board recommended charges against him.

Finding and Recommendations

Allegations Not Pleaded

Stop - § 87(2)(e), § 87(2)(g), § 87(2)(b), § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Physical Force – In her letters to the CCRB, § 87(2)(b) claimed to have been “body slammed” to the ground, and “beat up” by unspecified officers. In her CCRB statement, § 87(2)(b) admittedly pulled her arms away from PO Benites and Sgt. Leonardi who were attempting to handcuff her, and she stated that she “fought” and “tussled” with them. § 87(2)(b) also admitted saying to them, “No I’m not putting my hands up.” and, “Get the fuck off me.” The only type of physical force § 87(2)(b) alleged against Sgt. Leonardi and PO Benites was that they pulled on her arms as she attempted to pull away from them, which is consistent with the officers’ own statements. Such force is part and parcel to the process of handcuffing a suspect and does not rise to the level of an allegation of excessive force. Therefore, no allegations of excessive force have been pleaded against Sgt. Leonardi or PO Benites.

Refusal to provide medical treatment - In her letter to the CCRB, § 87(2)(b) alleged that while in the 79th Precinct stationhouse, she requested medical treatment due to her diabetes, but was denied. However, in her CCRB interview § 87(2)(b) stated that officers in the 79th Precinct stationhouse offered her medical treatment, but she refused. Therefore, an allegation was not pleaded.

Explanation of Subject Officer Identification

§ 87(2)(b) described the officer who cursed at her and other people in the crowd as a white male in his 30’s who was approximately 6’1” tall. § 87(2)(b) also all stated that this officer grabbed her right arm. Sgt. Leonardi is a white male who is 36 years old, and is 5’9” tall. He stated that he held § 87(2)(b) by her right arm and bicep. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) could only describe the officer who allegedly placed her in a chokehold and restricted her breathing as a white male. She could not provide any other physical description of him. She stated that this officer emerged from the same vehicle as PO Benites. PO Benites was in the same vehicle as PO Michael Iovine and PO Adam Dumelle, who are both white males. PO Dumelle stated that he dealt with the crowd and did not participate in handcuffing § 87(2)(b). Sgt. Leonardi stated that PO Iovine assisted him and PO Benites in handcuffing § 87(2)(b). Although Sgt. Leonardi denied that any officer placed § 87(2)(b) in a chokehold, he mentioned that PO Iovine accused § 87(2)(b) of attempting to bite him, which indicates that PO Iovine was in physical contact with § 87(2)(b)’s head or upper torso. Therefore the allegations of chokehold and restricted breathing are pleaded against PO Iovine.

Recommendations

Allegation A - Sgt. David Leonardi spoke rudely to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that after she refused to put her hands up and actively resisted arrest, Sgt. Leonardi said to her, “Didn’t we tell you to put your fucking hands up?” When § 87(2)(b) said that she could not breathe because she was being choked, Sgt. Leonardi allegedly told her, “Shut the fuck up.” § 87(2)(b) further alleged that after a crowd of her friends and family, including § 87(2)(b) and § 87(2)(b) gathered, Sgt. Leonardi allegedly said to them, “She’s a piece of shit.” And “Back the fuck up.” § 87(2)(b) also alleged that while being transported to the 79th Precinct stationhouse, Sgt. Leonardi reprimanded § 87(2)(b) for selling drugs and stated, “Your children are bastards.” Despite numerous phone calls, letters and contacts to their family members, § 87(2)(b) and § 87(2)(b) could not be contacted for this investigation. § 87(2)(b) who was in the crowd at some point in the incident stated that she “had words” with an unidentified uniformed officer but did not recall any officer cursing at her or the crowd (BR7). All of the officers denied cursing or stated that they did not recall hearing any cursing by any of the officers on scene.

§ 87(2)(g)

Allegation B - PO Michael Iovine used a chokehold against § 87(2)(b)

Allegation C - PO Michael Iovine restricted the breathing of § 87(2)(b)

§ 87(2)(b) alleged that PO Iovine wrapped his arms around her neck and pressed his forearm against her throat, restricting her breathing. She called out “I can’t breathe, I can’t breathe.” § 87(2)(b) ceased resisting arrest at this point and the chokehold was released. § 87(2)(b) did not claim to have suffered any injury as a direct result of the chokehold. § 87(2)(b) stated that she refused offers of medical treatment because she did not wish to cooperate with any of the police officers. § 87(2)(b)’s pre-arraignment screening form at Brooklyn Central Booking contained no mention of being placed in a chokehold. On August 2, 2014, § 87(2)(b) received medical treatment while in the custody of the Department of Corrections for diabetes related issues and her medical records contained no mention of a chokehold. All of the officers interviewed denied that anyone placed § 87(2)(b) in a chokehold. PO Cornejo stated that people in the crowd were yelling, “She § 87(2)(b) can’t breathe!” But all of the other officers denied hearing § 87(2)(b) say, “I can’t breathe.”

PO Michael Iovine resigned from the NYPD on December 11, 2014, (BR8) which was two months before this complaint was received at the CCRB. Therefore PO Iovine could not be interviewed for this investigation. As of May 22, 2015, PO Iovine has not returned to the NYPD.

§ 87(2)(g)

Pod: 2

Investigator: _____ Simon Wang 05/22/15
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date